

## **REMARKS**

Claims 3-37 were pending in the captioned application. Claims 5, 9-11, 18, 22-25, 31, and 35-37 have been canceled and Claims 3, 4, 6-9, 12, 13, 19-22, 26-28, 32-35 have been amended to clarify the invention as described in the specification. Support for these amendments is found in the specification, *inter alia*, at page 34, lines 1-20; page 75, lines 5-27; and page 77, lines 1-22. Claims 38-60, directed to certain embodiments of the invention, have been added. Support for new claims 38-60 is found, *inter alia*, at page 57, lines 15-25; page 3, lines 8-14, page 24, lines 33-36, page 25, lines 14-29, page 42, line 34, and in Section 10, at pages 71-89. No new matter has been introduced.

Applicants respectfully request that the amendments and remarks made herein be entered and made of record of the instant application.

### **Rejection For Obviousness-Type Double Patenting**

Claims 3, 4, 12, 13, and 26-30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 5,858,350 ('350 patent) and claims 1, 2, and 4 of U.S. Patent No. 5,624,679 ('679 patent). The Examiner contends that the claims are not patentably distinct from each other because claims 1 and 2 of the '350 patent and claims 1 and 2 of the '679 patent are drawn to the same poly- $\beta$ -1 $\rightarrow$ 4-N-acetylglucosamine comprising about 4,000 to about 150,000 N-acetylglucosamine monosaccharides attached in a  $\beta$ -1 $\rightarrow$ 4 conformation having a molecular weight of 800,000 to 30 million daltons. The Examiner also contends that it would be obvious to one skilled in the art that the polymer claims in the instant application and those claimed in the '350 and '679 patents are substantially overlapping and not distinguishable over each other.

In response, and without agreeing with the double patenting rejection, Applicants intend to submit an appropriate Terminal Disclaimer once the claims are indicated to be allowable in the present application but for a Terminal Disclaimer. In the meanwhile, Applicants request that the double patenting rejection be held in abeyance.

### CONCLUSION

Entry of the foregoing amendment and remarks into the record of the above-identified application is respectfully requested. Applicants submit that the remarks and amendments made herein now place the claims in condition for allowance. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

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Respectfully submitted,

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